



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN  
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ATTORNEY GENERAL

Board of Insurance Commissioners  
Austin, Texas

Gentlemen:

Attention of Mr. H. E. Wassell

Opinion No. 0-1443

Re: Must agents of burial associations  
under Senate Bill 135, Acts of the  
46th Legislature, procure licenses?

Your request for our opinion on the above stated ques-  
tion has been received by this department.

Section 23 of Senate Bill No. 135, Acts of the 46th  
Legislature reads as follows:

"Section 23. Burial Association.

"Any individual, individuals, firms, co-  
partnership, corporations or associations do-  
ing the business of providing burial or funeral  
benefits, which under any circumstances may be  
payable partly or wholly in merchandise or ser-  
vices, not in excess of One Hundred and Fifty  
(\$150. 00) Dollars, or the value thereof, are  
hereby declared to be burial companies, associa-  
tions or societies, and shall organize under  
provisions of Chapter 274, Acts of the Forty-  
first Legislature, 1929, and amendments there-  
to; and shall operate under and be governed by  
Chapter 274, Acts of the Forty-first Legisla-  
ture, 1929, and amendments thereto, and this  
Act. It shall be unlawful for any individual,  
individuals, firms, co-partnerships, corpora-  
tions, or associations, other than those defined  
above, to engage in the business of providing  
burial or funeral benefits, which under any cir-  
cumstances may be paid wholly or partly in mer-  
chandise or services."

Chapter 274, Acts of the 41st Legislature, 1929, com-  
prises Articles 4875a-1 to 4875-31, inclusive, Vernon's Statutes,  
and applies to local mutual aid associations.

Senate Bill No. 135, Acts of the 46th Legislature, refer-

ferring to Burial Association specifically provides that Burial Associations shall organize under the provisions of Chapter 274, Acts of the 41st Legislature 1929, and amendments thereto; and shall operate under and be governed by Chapter 274, Acts of the 41st Legislature, 1929, and amendments thereto, and Senate Bill No. 135, as passed by the 46th Legislature.

Section 29 of said Chapter 274 reads as follows:

"The provisions of this Act shall not apply to labor unions, domestic orders or associations which do not provide a death benefit of more than one hundred and fifty (\$150.00) dollars, nor to the associations which are now described in Article 4857 Revised Statutes 1925 nor any society or association if any, heretofore legally operating state-wide on an assessment basis under any charter heretofore granted under any valid statute of this State."

Section 21 of Senate Bill No. 135, Acts of the 46th Legislature, specifically repeals Section 29 of said Chapter 274 and reads as follows:

"That Section 29, Chapter 274, Acts of the Forty-first Legislature, 192, (Page 563), be and the same is hereby repealed, insofar as same is in conflict with the provisions hereof relative to burial associations."

Article 5056, Revised Civil Statutes and Article 568 of the Penal Code specifically define insurance agents.

Section 1 of Article 5068b as amended by the 44th Legislature, 1935, reads as follows:

"Hereafter when any person shall desire to become an agent for a life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association, or organization, local mutual aid association, or statewide mutual association, soliciting or writing insurance in the state of Texas, as the term agent is elsewhere defined in the law, he shall in such form and giving such information as may be required, make application to the Board of Insurance Commissioners for a license to act as such agent. After the Board of Insurance Commissioners shall determine that such

person is of good character and reputation, it shall issue the license to such person in such form as it may prepare."

Under Section 1 of Article 5068b, supra, any person who desires to become an agent for a local mutual aid association, statewide mutual association, or any other company, association or organization therein named, soliciting or writing insurance in this State, as the term agent is defined by law is required to make application to the Board of Insurance Commissioners for a license to act as such agent; after the Board determines that the applicant is entitled to such license, the Board shall issue the license to such person. And, as above stated, Burial Associations are required to organize under the provisions of Chapter 247, Acts of the 41st Legislature and amendments thereto, and shall operate under and be governed by said Chapter 247, and amendments thereto, and Senate Bill No. 135, Acts of the 46th Legislature. Therefore, it is apparent that it was intended by the Legislature that agents of Burial Associations should be licensed.

Therefore, in view of the foregoing authorities, you are respectfully advised that it is the opinion of this department that agents of Burial Associations are required to procure licenses.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By s/Ardell Williams  
Ardell Williams

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APPROVED OCT 2, 1939  
s/Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman